IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
ST. PAUL DIVISION

DAVID BERGER and BERGER TABLE PADS, INC., Plaintiffs, v. LYDON-BRICHER MANUFACTURING COMPANY, Defendant.	)))))))))))	CASE NO. ____________________

COMPLAINT FOR PATENT INFRINGEMENT AND DAMAGES

Come now Plaintiffs, David Berger and Berger Table Pads, Inc., by counsel, and for their Complaint against Defendant, Lydon-Bricher Manufacturing Company, allege and say as follows:

I. NATURE OF THE ACTION

1. This is a civil action for patent infringement under the laws of the United States, 35 U.S.C. § 271 *et seq.*

II. THE PARTIES

2. Plaintiff, David Berger ("Berger"), is a citizen and resident of the State of Indiana.

3. Plaintiff, Berger Table Pads, Inc. ("Berger Table Pads"), is a corporation organized and existing under the laws of the State of Indiana with its principal place of business in Indianapolis, Indiana.

4. Defendant, Lydon-Bricher Manufacturing Company ("Lydon-Bricher"), is a corporation organized and existing under the laws of the State of Minnesota with its principal place of business in Oakdale, Minnesota.

III. JURISDICTION AND VENUE

5. This Court has original subject matter jurisdiction under 28 U.S.C. §§ 1331 (federal question), 1332 (diversity jurisdiction), and 1338(a) (exclusive jurisdiction over patents).

6. Venue is proper under 28 U.S.C. §§ 1391(a)(1) and (c), and 1400(b).

7. Defendant is subject to personal jurisdiction in this district and, as a Minnesota corporation, "resides" in this District pursuant to *TC Heartland LLC v. Kraft Foods Group Brands LLC*, 137 S.Ct. 1514 (2017).

8. There is diversity of citizenship between Plaintiffs and Defendants, and amount in controversy is in excess of Seventy-Five Thousand Dollars ($75,000.00) exclusive of interest and costs.

IV. FACTUAL BACKGROUND

9. On December 26, 2000, the United States Patent and Trademark Office ("Patent Office") duly and legally issued United States Patent No. 6,165,577 (the "'577 Patent"), entitled "Magnetic Latching System for Protective Tabletop Pads." A true and correct copy of the '577 Patent is attached hereto and incorporated by reference herein as Exhibit "A."

10. Plaintiff Berger is the Inventor of the '577 Patent.

11. Plaintiff Berger is the owner of the '577 Patent.

12. At all relevant times herein, Plaintiff Berger Table Pads manufactured and marketed table pads using the system described in the '577 Patent under a license from Berger.

13. Lydon-Bricher has manufactured, offered for sale, sold, or used all or in material part of an infringing method and system for magnetically latching protective tabletop pad sections together in this District and elsewhere. That latching system consisted of a magnetic

element on the side of one table pad and a magnetic element on the side of the opposing table pad.

14. Plaintiffs have demanded that Lydon-Bricher cease and desist from acts that infringe the '577 Patent, but Lydon-Bricher has refused to cease and desist.

V. CAUSES OF ACTION

Count I: Infringement of U.S. Patent No. 6,165,577

15. Plaintiffs reincorporate the allegations of paragraphs 1 through 13 of Plaintiffs' Complaint as if fully restated herein.

16. Lydon-Bricher infringed the '577 Patent in this District and elsewhere by making, using, offering for sale, or selling a method and system for magnetically latching protective tabletop pad sections, and will continue to do so unless enjoined by the Court.

17. Plaintiffs have marked their table pad products in accordance with 35 U.S.C. § 287.

18. Lydon-Bricher has knowingly, willfully, and deliberately infringed the '577 Patent in conscious disregard of Plaintiffs' rights, making this case exceptional within the meaning of 35 U.S.C. § 285 and justifying treble damages pursuant to 35 U.S.C. § 284.

19. Lydon-Bricher will continue to infringe the '577 Patent, causing immediate and irreparable harm unless this Court enjoins and restrains its activities.

20. The infringement by Lydon-Bricher has and will deprive Plaintiffs of sales, profits, royalties, and other related revenue which they would have made or would enjoy in the future, have injured Plaintiffs in other respects, and will cause Plaintiffs added injury and damage, including loss of sales, profits, royalties and other related revenue in the future unless Lydon-Bricher is enjoined from infringing the '577 Patent.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request this Court to:

(a) Enter judgment in favor of Plaintiffs that U.S. Patent No. 6,165,577 is valid, enforceable, and has been infringed by Defendant;

(b) Issue a permanent injunction restraining Defendant, its officers, directors, agents, employees, successors, subsidiaries, assigns, and all persons acting in privity or in concert or participation with Defendant from the continued infringement, direct or contributory, or active inducement of infringement by others of U.S. Patent No. 6,165,577;

(c) Direct Defendant to file with this Court, and to serve on Plaintiffs, a written report under oath setting forth in detail the manner and form in which Defendant will comply with the injunction;

(d) Order Defendant to account for and pay to Plaintiffs, Plaintiffs' actual damages suffered by reason of Defendant's infringement of U.S. Patent No. 6,165,577 and that such damages be trebled and paid to Plaintiffs due to Defendants' deliberate, willful, and knowing conduct;

(e) Order Defendant to pay Plaintiffs their costs, expenses, and fees, including reasonable attorneys' fees pursuant to 35 U.S.C. § 285, and pre-judgment and post-judgment interest at the maximum rate allowed by law; and

(f) Grant Plaintiffs other such and further relief as the Court may deem just and proper.

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